

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii )  
citizen, )  
Plaintiff, )

vs.

) Civil No. CV03-00385

HAWAIIAN EXPRESS SERVICE, ) SOM-LEK  
INC., a California ) (Copyright)  
corporation, et al., )  
Defendants. )

-----)

DEPOSITION OF JACQUELINE RIO

Taken on behalf of Plaintiff Wayne Berry at 1132  
Bishop Street, Suite 306, Honolulu, Hawaii, 96813,  
commencing at 1:50 p.m., on Monday, December 6,  
2004, pursuant to Notice.

REPORTED BY: JANIS K. FLOATE, RPR, CSR 254  
Notary Public, State of Hawaii

1 Noa, and the subject is reverting to original  
2 database screens. It's dated March 10th. Do you  
3 recall being informed at any time that Fleming was  
4 reverting to the original database screen?

5 A. No, I don't recall.

6 Q. If we then can go further in the e-mail,  
7 it talks about Jackie's automated costing forms,  
8 create records in this utility database and then  
9 paste or import them into the original database.

10 Do you know what is meant here? Do  
11 you have any understanding of what you understand  
12 Jackie's automated costing forms to mean?

13 A. Automated costing means -- well, it's a  
14 separate -- it's a separate -- it's a program that  
15 will input the cost automatically.

16 Q. What do you understand about how it  
17 operates? What do you need to do to make it  
18 function? I understand you're not a computer  
19 programmer, but just as the operator, what do you do  
20 to make it work?

21 A. What do I do with it?

22 Q. Right. When you say it's automated  
23 costing, is it totally automated where you don't  
24 have any involvement at all in what it does?

25 A. Well, I -- what I do in this case is that

1 I -- okay. Let's say I were to input the cost of  
2 all containers coming in on a vessel.

3 Q. Okay.

4 A. Then I would tell that program to say,  
5 okay, I want to put -- I want the cost for all of  
6 these containers.

7 Q. Based on what vessel so you can pull the  
8 vessel up?

9 A. Yes.

10 Q. Say give me all the containers and then  
11 run the cost out?

12 A. Yes.

13 Q. Is C&S presently using something that does  
14 that function for you today?

15 A. Yes.

16 Q. I'd like you to refer to Exhibit 39. Does  
17 it look like that?

18 A. Yes.

19 Q. It's a straight spread sheet?

20 A. It's a straight spread sheet.

21 Q. That does the automated costing?

22 A. Yes.

23 Q. Can you explain to me what you do to get  
24 it to do exactly what you just said, which is to  
25 give it a given vessel and pull out all the

1 containers on that vessel? What do you do to make  
2 it give you that information?

3 A. Just like I explained earlier, I said,  
4 okay, I put the vessel name and then the vessel is  
5 given a voyage number. So I put the vessel name,  
6 the voyage number, and then I click on a button that  
7 will start the costing procedure.

8 Q. If you would turn yourself to Exhibit 39  
9 again. It may be helpful just to leave them out.  
10 Can you point to Exhibit 39 and show me where on --  
11 again, this is just a representation, but where  
12 would that button be located on this screen?

13 A. Oh, it's not on Excel. It's on a  
14 separate one. That program, that cost, that's the  
15 costing, it's a separate program.

16 Q. From the Excel spread sheet?

17 A. Yes, from the Excel spread sheet.

18 Q. Where is that program on your computer?

19 A. I don't know.

20 Q. So you have Excel running and you have  
21 another program that allows you to run the costing  
22 whatever report?

23 A. Yes.

24 Q. And you don't know what that program is?

25 A. No, I don't.

1 Q. Based on your experience, how long have  
2 you used Excel in your life?

3 A. Maybe five years.

4 Q. Do you have any reason to believe that  
5 that program is Excel?

6 MR. HOSODA: Lacks foundation, vague and  
7 ambiguous.

8 MR. SMITH: Calls for speculation.

9 MR. HOSODA: Calls for speculation.

10 BY MR. HOGAN:

11 Q. You can answer, if you can.

12 A. I don't know exactly what program it uses.

13 Q. Who would know what that program is? If  
14 you had to ask somebody if you were at work and  
15 wanted to get the information of where that computer  
16 program came from, who would you ask?

17 A. I would ask Mark.

18 Q. Mark Dillon?

19 A. Mark Dillon, yes.

20 Q. Is it your understanding that Mark Dillon  
21 was the one, to your understanding, that put that  
22 program on your computer?

23 A. Yes.

24 Q. But when you open that program; ma'am, you  
25 understand when you open Excel, it shows a splash

1 screen or an opening screen that says Excel and goes  
2 into whatever worksheet you're in?

3 A. Yes.

4 Q. Does this program that you just described  
5 open Excel when you open it?

6 A. No.

7 Q. Does it open any Microsoft programs when  
8 it opens?

9 A. I don't know what program it's running  
10 under.

11 Q. It doesn't have a Microsoft label on it  
12 that says Microsoft Access or Excel or anything  
13 like that?

14 A. No.

15 Q. Do you have Access on your computer? Do  
16 you know the term Microsoft Access?

17 A. Yes.

18 Q. Do you have a copy of Access on your  
19 computer at C&S?

20 A. No.

21 Q. Do you use Windows Office Suite?

22 A. No.

23 Q. If we could go back to Exhibit 42, and if  
24 you could go to the third page, which is a little  
25 larger blowup of what we looked at before, which

## C E R T I F I C A T E

STATE OF HAWAII )  
 ) SS.  
 CITY AND COUNTY OF HONOLULU )

I, JANIS K. FLOATE, Notary Public, State  
 of Hawaii, do hereby certify:

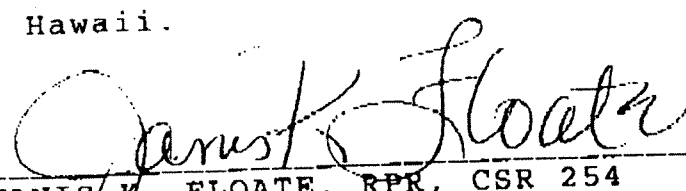
That on December 6, 2004, appeared  
 before me Jacqueline Rio, the witness whose  
 deposition is contained herein; that prior to being  
 examined, the witness was by me duly sworn;

That the deposition was taken down by me  
 in machine shorthand and was thereafter reduced to  
 typewriting under my supervision; that the foregoing  
 represents to the best of my ability, a true and  
 correct transcript of the proceedings had in the  
 foregoing matter.

I further certify that I am not an  
 attorney for any of the parties hereto, nor in any  
 way concerned with the cause.

DATED this 15 day of Dec, 2004,

in Honolulu, Hawaii.

  
 JANIS K. FLOATE, RPR, CSR 254  
 Notary Public, State of Hawaii  
 My Commission Exp: December 12, 2005